

**Revenue Information Bulletin
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Sales Tax**

**State Sales Tax on Exemptions Continued with Rate Reduction on Utilities and
Food for Home Consumption**

Summary

Act No. 22 of the 2002 Regular Session of the Louisiana Legislature has continued the suspension of most sales tax exemptions at the 4 percent rate until June 30, 2004. The rate of sales tax on food for home consumption, electricity, water utility services, and steam is reduced to 3.9 percent on July 1, 2002, and to 3.8 percent on July 1, 2003. Other exemptions that have not been subject to suspension for the last two years will continue not to be subject to suspension. This Revenue Information Bulletin provides information about the exemptions that are subject to suspension, exemptions that are not suspended, and some details about the sales taxation of food products and utility services.

Act No. 22 of the 2002 Regular Session of the Louisiana Legislature continued the four percent suspension of most state sales tax exemptions through June 30, 2004. However, the Act reduced the rate of state sales tax on sales of food for home consumption, electricity, water utility service, natural gas, and steam to 3.9 percent beginning July 1, 2002. The rate of tax on these transactions will be reduced again on July 1, 2003, from 3.9 percent to 3.8 percent.

Except for sales of food for home consumption, and electric, water, natural gas, and steam utilities, the four percent state sales tax rate will continue to be collected on exemptions that have been suspended since July 1, 2000. Fully suspended exemptions include, but are not limited to:

- sales of newspapers;
- purchases by nonprofit electrical cooperatives;
- purchases of butane, propane, and other liquefied petroleum gases for private residential consumption;
- purchases of certain materials for use in commercial printing processes;
- purchases of certain materials by organizations that sponsor Mardi Gras balls;
- purchases of materials for the construction and operation of nonprofit retirement centers;
- the first \$50,000 of the sales price of certain items of commercial farm equipment, including irrigation wells, and on-the-farm facilities that are used to dry or store grain;
- sales of admission tickets by Little Theater organizations;
- sales of racehorses at claiming races;
- sales of feed and feed additives for animals used for business purposes;
- sales of certain supplies for use in the harvesting of crawfish;
- automobiles, trucks, and aircraft removed from inventory for use as demonstrators;

- catalogs distributed in the state free of charge;
- purchases by Ducks Unlimited and other organizations dedicated exclusively to the conservation of North American waterfowl and wetland habitat;
- sales of certain supplies for use in the harvesting of catfish;
- sales of materials and energy sources, other than natural gas (taxable at 3.9 percent) and refinery gas [taxable under the formula provided by R.S. 47:301(3)(f)] that are used for boiler fuel or to fuel the generation of electricity for sale;
- sales of adaptive driving equipment and motor vehicle modifications that are prescribed by physicians, licensed chiropractors, or driver rehabilitation specialists licensed by the state;
- sales of meals to the staff and students of educational institutions, to the staff and patients of hospitals, to the staff, inmates, and patients of mental institutions, and to boarders of rooming houses and occasional meals furnished by educational, religious, or medical organizations in facilities not open to outsiders or the general public; and
- the sale or use of pharmaceutical samples approved by the U.S. Food and Drug Administration that are manufactured in the state or imported into the state for distribution without charge to physicians, dentists, clinics, or hospitals.

Food Sold for Preparation and Consumption in the Home

As of July 1, 2002, the 3.9 percent rate will apply to food sold for preparation and consumption in the home as defined in Louisiana Revised Statutes 47:305(D)(1)(n-r). This includes bakery products, dairy products, soft drinks, fresh fruits and vegetables, and packaged food requiring further preparation by the purchaser. Items such as malt beverages, beer, other alcoholic beverages, distilled water, carbonated water, water in containers, vitamins, and ice are not food items and are fully taxable.

Food sales by restaurants, drive-ins, snack bars, candy and nut counters, private clubs, and similar establishments who furnish facilities for the consumption of the food on the premises are not covered by the "food" exemption. Sales by these dealers will remain taxable at the 4 percent rate. The "food" exemption applies to the state sales and use tax and is not generally applicable to the sales and use taxes levied by parishes, municipalities, and school boards.

The sale of food items by businesses other than restaurants, drive-ins, snack bars, candy and nut counters, private clubs and similar establishments will be eligible for the 3.9 percent rate if the items are prepackaged in larger than single-serving size, or require or are generally intended for further preparation by the purchasers prior to consumption. Preparation includes cooking, heating, cooling, washing, or blending with other ingredients. Items sold by grocery stores, department stores, variety stores, drug stores, etc., that are eligible for the 3.9 percent rate include sugar, canned goods, fresh fruits and vegetables, coffee, condiments, relishes, spreads, shortening, flavorings, bread, soft drinks by the carton or case, large pre-wrapped boxes of candy, cheese, delicacies, and bakery products. Sales of other food items in small quantities are fully taxable at 4 percent even if they are not intended for immediate consumption on the premises where sold. This latter category includes individual packages of popcorn and chips, chilled single serving bottles, cans, or cups of soft drinks, loose candy, candy bars, nuts, mints, and chewing gum. Food items sold by grocery stores, department stores, variety stores, drug stores, etc., in identical eating condition as items sold from the menus of restaurants, drive-ins, or similar eating-places are likewise taxable at 4 percent.

Establishments, with or without eating facilities that are engaged in the sale of food for immediate consumption will be considered restaurants, drive-ins, or snack bars. Sales by these establishments are not covered by the food exemption, even though some of the items sold are not intended for immediate consumption on the sellers' premises. For example, restaurants must collect 4 percent state sales tax on the sale of a wedding or birthday cake, even though the cake is removed from the restaurant for consumption. Similarly, doughnut shops that provide facilities for on-premises consumption must collect the 4 percent state tax on all of their sales, regardless of the quantity sold or whether the items are consumed on or off of the premises. Bakeries and doughnut shops that do not have eating facilities will collect the 3.9 percent rate on the sale of food items of larger than single-serving quantity or on sales of foods that require further preparation prior to consumption. Wholesale dealers must collect advance sales tax at the 4 percent rate on sales of food products and ingredients to restaurants, drive-ins, snack bars, and other retailers whose food sales are taxable under the law. The advance tax is collectible at the 3.9 percent rate on sales of food items to grocery stores and other retailers who certify that the majority of their retail sales of food will be subject to the 3.9 percent state sales tax rate. The Department of Revenue has published form R-1006 for use in making this certification. Vending machine operators cannot use the form.

Water, Natural Gas and Electricity; Tax Rate Transition Procedures

Sales of water, natural gas, steam, and electric utilities will also be subject to the 3.9 percent tax rate. Utility companies must remit the state sales tax on the sales tax return for the month in which they invoice their customers. For example, if a customer's utility meter is read on July 5, and an invoice is rendered to the customer on July 6, the state sales tax on that invoice is payable to the department with the utility's July sales tax return that is due on or before August 20.

Utility companies must use a special formula to calculate the taxes due for service periods that include days before and after July 1, 2002. For example, if a meter is read on July 5, 2002, with 30 days in the service period since the previous reading, 25/30ths of the charges for the period will be subject to the tax at the 4 percent rate that was applicable before July 1, 2002. The remainder or 5/30ths of the charges for the period will be subject to the 3.9 percent rate applicable to periods on and after July 1, 2002. These fractions will change for each meter reading date. The 3.9 percent rate does not affect telecommunication services, which will remain taxable at 3 percent. The sales tax return form that dealers will receive at the end of July, 2002, for their July, 2002 filings will have been changed to facilitate the reporting of the correct tax rates.

Transactions Not Affected

Many exempt transactions provided for in the state sales tax law and other statutes are not affected by the suspension of exemptions or the rate reduction provided for by Act 22. These transactions will continue to be fully exempt from the state sales tax. They include:

- sales in and admissions to state-owned domed stadiums and similar facilities;
- sales of farm products direct from the farm by producers;
- farm products produced by farmers and used by farmers and their families;

- sales of fertilizer and containers to farmers;
- drugs prescribed by physicians and dentists;
- wheelchairs for personal use and patient aids for home use prescribed by physicians or licensed chiropractors;
- ostomy, colostomy, ileostomy devices, and equipment; medical devices used by a patient in the treatment of any disease under the supervision of a physician;
- restorative materials used by dentists; purchases and rentals, under a physicians prescription of kidney dialysis machines, equipment and supplies for home use;
- sales and use of 50-ton vessels and new component parts and sales of certain materials and services to vessels operating in foreign and interstate coastwise commerce;
- sales of insulin;
- sales of seeds to farmers;
- sales of pesticides to be used for agricultural purposes;
- property purchased for exclusive use offshore;
- admissions, parking fees, and sales of tangible personal property at certain fund-raising events sponsored by qualifying organizations;
- sales by blind persons who operate certain small businesses;
- purchases of fishing boats, supplies, fuel, lubricants and repairs for the boats owned and operated by licensed commercial fishermen;
- first \$50,000 of the sales price of certain rubber-tired farm equipment and attachments;
- sales of diesel fuel, butane, propane, or other liquefied petroleum gases to farmers;
- sales or purchases by sheltered workshops for the mentally retarded licensed by the Louisiana Department of Health and Hospitals;
- purchases with USDA food coupons and WIC vouchers;
- the sale or use of trucks of 26,000 pounds or more and trailers that are used at least 80% of the time in interstate commerce; and

Questions concerning the collection of the sales tax on suspended exemptions can be directed to the Taxpayer Services Division in Baton Rouge at 225.219.7356 or to any of the department's regional offices.

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